

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Suzanne Cunningham is an Investment Manager for MacFarlane Partners, a real estate investment consultant for the California Public Employees Retirement System (“CalPERS”). As a real estate investment consultant, Respondent is a designated employee as defined in Section 82019, subdivision (c) of the Political Reform Act (the “Act”),<sup>1</sup> and in the CalPERS conflict of interest code.

As required by the Act and the CalPERS conflict of interest code, each designated employee of CalPERS must file an annual statement of economic interests (“SEI”) by April 1<sup>st</sup> of each year (unless April 1<sup>st</sup> falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day)<sup>2</sup>.

In this matter, Respondent failed to file a year 2000 annual statement of economic interest by the April 2, 2001 due date.

The Enforcement Division handled this case on an expedited basis under the SEI Expedited Procedures adopted by the Commission in July of 1999.

For the purposes of this Stipulation, Respondent’s violation is stated as follows:

As a real estate investment consultant for CalPERS, Suzanne Cunningham failed to file a year 2000 annual statement of economic interests by the April 2, 2001 due date, in violation of Section 87300 of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, Section 87300 requires every agency to adopt and promulgate a

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<sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Regulation 18116

conflict of interest code. The agency's conflict of interest code must specifically designate the employees of the agency who are required to file statements of economic interests, disclosing their reportable investments, business positions, interests in real property, and income. Under Section 82019, subdivision (c), and Section 87302, subdivision (a), the individuals who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental decisions that may have a reasonably foreseeable material effect on one or more of the individual's economic interests.

Under Section 87302, subdivision (b), an agency's conflict of interest code must require every designated employee to annually file a statement of economic interests, for each year that the employee remains in office, at a time specified in the agency's conflict of interest code, disclosing his or her reportable economic interests during the preceding calendar year.

Under Section 87300, the requirements of an agency's conflict of interest code have the force of law, and any violation of those requirements is deemed a violation of the Act.

## **SUMMARY OF THE FACTS**

As a real estate investment consultant for CalPERS, Respondent is a designated employee under the CalPERS conflict of interest code and was required to file an annual statement of economic interests for year 2000, by April 2, 2001.

On February 26, 2001, Felecia Wimberley, filing official for CalPERS, sent a letter and a Form 700 (statement of economic interests form) to Respondent requesting that she complete the statement of economic interests form and return it by April 2, 2001.

On April 19, 2001, Ms. Wimberley contacted Respondent's office by telephone, to check on the status of the Form 700, and was informed by Respondent that she had just received the SEI form, and would attempt to get it mailed soon.

On August 24, 2001, Ms. Wimberley attempted to contact Respondent a second time by telephone, to check on the status of the Form 700. Ms. Wimberley left a message for Respondent, stating that her year 2000 annual SEI had not been filed yet, and asking that Respondent contact her immediately.

On November 6, 2001, Ms. Wimberley sent a second letter to Respondent via certified mail advising Respondent that her year 2000 annual SEI was past due, and advising Respondent she was now liable for a late filing fee of \$100. She also informed Respondent that she would be referring the matter to the appropriate enforcement authority if she did not receive the statement by November 16, 2001. When the statement was not filed in response to this second letter, CalPERS referred Respondent's delinquent filing to the Enforcement Division of the Fair Political Practices Commission (the "FPPC").

On December 31, 2001, Investigator Dan Schek of the Enforcement Division faxed and mailed a

letter to Respondent requesting that Respondent contact him immediately regarding the delinquent year 2000 annual SEI. In response to his letter, Investigator Schek was contacted by Respondent's assistant, Victoria Martland, on January 7, 2002. Investigator Schek advised her that Respondent needed to file the delinquent year 2000 annual SEI immediately.

On January 10, 2002, Respondent filed her year 2000 SEI over eight months after the April 2, 2001 due date.

### **CONCLUSION**

This matter consists of one count of violating Section 87300, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000). However, under the SEI Expedited Procedures adopted by the Commission in July 1999, the approved administrative penalty, when an individual files a delinquent statement of economic interests within 30 days of being contacted by an Enforcement Division investigator, is between Two Hundred and Three Hundred Dollars (\$200-\$300).

The facts of this case, including the fact that Respondent did not file her year 2000 annual statement of economic interests until it was over eight months late, justifies imposition of the agreed upon penalty of Three Hundred Dollars (\$300).